

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4642 OF 2005

Rajesh Mishra @ Gokul Prasad Pandey ...Applicant
VS.
The State of Maharashtra ...Respondent

Mr.Ganesh Gole with Mr.Indrajeet Joshi for the Applicant
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA, J.
DATE : AUGUST 4,2005

P.C.:

1. Heard Shri Gole, learned Counsel for the Applicant and learned A.P.P. for State. Shri Gole submitted that the Applicant is in custody for last more than six months and no recovery has been made at the instance of the Applicant. He pointed out that other co-accused have been enlarged on bail and in fact one of the co-accused is enlarged on bail by this Court. He submitted that certain payments have been made by the complainant by cheque for which a receipt was issued by the co-accused who is enlarged on bail. He submitted that this is not a case of cheating but this is a case of failure of the commercial transaction as the Applicant was involved in a D.R.I. case. The learned A.P.P. has pointed out that the trial has already started and cross examination of the complainant is completed.

2. While granting bail in favour of the co-accused, this Court has observed that the case of the prosecution is that

the present Applicant is the brain behind the conspiracy and it is the Applicant who has induced the complainant to invest substantial amount in the business of importing garlic. Considering the material on record against the Applicant and considering the fact that the trial has already commenced, no case is made out for enlarging the Applicant on bail. Considering the fact that the maximum punishment for the offence registered against the Applicant is 7 years, if the trial is not completed within a reasonable time, it will be open for the Applicant to apply for bail.

3. Application is rejected. The learned Trial Judge will conclude the trial as expeditiously as possible and preferably on or before 31st March 2006. If the trial is not concluded within reasonable time, the Applicant will be free to apply afresh for grant of bail.

JUDGE